

LEE ET AL.  
Appl. No. 10/553,261  
Atty. Dkt. 3260-29  
Amendment After Final Rejection  
Wednesday, January 21, 2009

**REMARKS**

Reconsideration is requested.

Claims 2-10 are pending. Claim 8 has been withdrawn from consideration.

Claims 1-6 have been canceled, without prejudice. Claim 7 has been revised to include the details of claims 2 and 4. Claim 11 has been added as a new claims similar to claim 9 but dependent from claim 7. Claim 11 reads on the elected species. No new matter has been added. Claims 7-11 will be pending upon entry of the present Amendment.

Entry of the present amendment will not raise new issues requiring further search and/or consideration. The present Amendment does not add new claims without canceling a corresponding number of claims. Entry of the present Amendment will at least reduce the issues for appeal by obviating the Section 102 rejection of claims 2 and 10 over Cho (JP 01233207). Entry of the present Amendment and withdrawal of the Section 102 rejection are requested.

To the extent not moot in view of the above amendments, the Section 103 rejection of claims 2-7, 9 and 10 over Cho (JP 01233207) and Ribier (U.S. Patent No. 5,658,575), is traversed. Reconsideration and withdrawal of the rejection are requested in view of the above and the following distinguishing comments.

The applicants submit that Cho fails to teach or suggest a biosome which is prepared by use of a non-ionic surfactant and a ceramide bound to glycerine, as presently claimed. Moreover, the applicants submit that the ceramide of the secondary reference is a an active lipophile contained in an oily globule, as opposed to a

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constituent of a biosome, as presently claimed. The applicants refer the Examiner to column 4, lines 52-66 of the secondary reference in this regard.

Further, the applicants submit that glycerine of the claims is a constituent of the biosome whereas the applicants submit that glycerine is a constituent of an aqueous phase in which the oily globule is dispersed in the secondary reference. The applicants refer the Examiner to column 7, line 36, column 8, lines 17 and 57, column 9, line 42 and column 10, line 48 of the secondary reference in this regard.

The applicants submit that the secondary reference fails to teach or suggest a biosome which is prepared by use of a non-ionic surfactant and a ceramide bound to glycerine as required by the present claims.

Withdrawal of the Section 103 rejection is requested.

To the extent not moot in view of the above amendments, the Section 103 rejection of claims 2-7, 9 and 10 over Albacarys (U.S. Patent No. 6,338,855), is traversed. Reconsideration and withdrawal of the rejection are requested in view of the above and the following distinguishing comments.

The applicants submit that Albacarys fails to teach or suggest a biosome of the claims wherein, for example, a non-ionic surfactant is a constituent. The applicants submit in the regard that the nonionic disposition aid of the cited reference is not a constituent of a biosome of the claims. The applicants refer the Examiner to column 29, lines 6-8 of the cited document in this regard.

The applicants further submit that a ceramide of the claims is a constituent of the biosome whereas the applicants understand the cited art to list phytanthiol, cited by the

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Examiner, as an example of an oil soluble conditioning agent. The applicants refer the Examiner to column 41, lines 39-46 of the cited document in this regard.

As noted above, the present claims include glycerine as a constituent of the biosome of the claims. The applicants understand glycerine however to be an example of a water soluble conditioning agent according to the cited art. The applicants refer the Examiner to column 42, line 22 and claims 19 and 20 of the cited art.

The applicants submit that the cited art fails to teach or suggest a biosome of the claimed invention. The claims are submitted to be patentable over the teachings of Albacarys. Withdrawal of the Section 103 rejection is requested.

As further evidence of the patentability of the claimed invention over the cited art, the applicants submit that the presentation of the extracts of the claims in a biosome of the claims provides more effective penetration of the active ingredients into the skin. The more effective penetration is believed by the applicants to provide improved skin elasticity and skin whitening. The formulation of the claimed invention is further believed by the applicants to provide improved formulation stability and safety on the skin. The applicants urge the Examiner to consider, for example, Experimental Examples VI to X as compared with Comparative Example 1 of the specification wherein the applicants believe that a composition of Example 1, which contains a biosome according to the claimed invention, is demonstrated to have superior results as compared with a composition of Comparative Example 1 of the specification, which does not contain a biosome according to the claimed invention.

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The claims are submitted to be patentable over the cited art which does not teach or suggest a composition containing a biosome according to the claimed invention.

The claims are submitted to be in condition for allowance and a Notice to that effect is requested.

Respectfully submitted,

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